

## Department of Health and Human Services

### DEPARTMENTAL APPEALS BOARD

#### Appellate Division

SUBJECT: Rhode Island Department of Human Services  
Docket No. A-05-47  
Decision No. 2133

DATE: November 29, 2007

#### DECISION

The Rhode Island Department of Human Services (Rhode Island) appealed a determination by the Administration for Children and Families (ACF) that Rhode Island is subject to a financial penalty that would reduce its funding for the Temporary Assistance for Needy Families (TANF) program under title IV-A of the Social Security Act (Act). ACF determined that a penalty was authorized because Rhode Island's child support enforcement program under title IV-D of the Act failed to submit complete and reliable data needed to determine its performance at establishing paternity in federal fiscal year (FFY) 2003, following its failure to submit complete and reliable data needed to determine its performance in FFY 2002. The amount of the penalty is \$1,890,014 or 2% of Rhode Island's TANF funding for FFY 2001.

This appeal was stayed pending the Board's resolution of Rhode Island's earlier appeal of a TANF funding penalty that ACF imposed for Rhode Island's failure to submit complete and reliable data needed to determine its performance in FFYs 2001 and 2002. Rhode Island appealed the earlier penalty jointly with eight other States on whom ACF had imposed penalties for failure to meet required IV-D performance levels, and/or to submit reliable data needed to calculate performance in FFYs 2001 and 2002. The Board found in favor of ACF and sustained ACF's determinations that the States were subject to penalties, in Alabama Dept. of Human Resources, et al., DAB No. 1989 (2005). The Federal District Court for the District of Columbia affirmed the Board's decision in Alabama Dept. of Human Resources, et al. v. U.S. Dept. of Health and Human Services, 478 F.Supp.2d 85 (D.D.C. 2007), and the States did not appeal the court's decision.

In this appeal, Rhode Island argues that it received neither the notice set forth in ACF's regulations, nor the corrective action year contemplated by statute. The Board rejected those arguments in DAB No. 1989, and the district court affirmed the Board's holding. See also Nevada Dept. of Human Resources, DAB No. 1995 (2005), aff'd, Nevada v. Leavitt, No. 05-00697-HDM-VPC (D. Nev. Dec. 28, 2006); Indiana Family and Social Services Administration, DAB No. 2001 (2005), aff'd, Alabama Dept. of Human Resources, et al.; Puerto Rico Dept. of the Family, DAB No. 1993 (2005), appeal pending; and Virgin Islands Dept. of Justice, DAB No. 2003 (2005) (all addressing and finding in ACF's favor on the notice and corrective action year issue, as well as on other issues).\*

Rhode Island raises the same arguments that it previously raised in DAB No. 1989 and on which the Board ruled in ACF's favor. On November 7, 2007, the Board ordered Rhode Island to show cause why the Board should not proceed to decision in this appeal based on the analysis in the Board's previous decisions and the related court decisions cited above. In response, Rhode Island stated that it had decided not to submit additional briefing on the issues presented in this appeal and that it understands that the Board will issue a summary decision based on the analysis set forth in the related Board and court decisions.

Accordingly, with the parties' consent, we are issuing a summary decision sustaining ACF's determination that Rhode Island is subject to a penalty, based on the analysis first presented in Alabama and further developed in the other Board decisions and in the related court decisions cited above. We fully incorporate that analysis by reference here.

### Conclusion

For the reasons stated above or incorporated by reference, we uphold ACF's determination imposing a penalty on Rhode Island of

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\* Rhode Island also argued that the penalty of 2% of Rhode Island's TANF funding was excessive because it is the amount authorized for a second successive penalty. When Rhode Island made that argument, its earlier appeal of the first penalty was pending before the Board. As the Board upheld the first penalty, that argument is no longer applicable.

\$1,890,014 for failure to submit complete and reliable data needed to determine its performance at establishing paternity in FFY 2003.

\_\_\_\_\_/s/\_\_\_\_\_  
Sheila Ann Hegy

\_\_\_\_\_/s/\_\_\_\_\_  
Constance B. Tobias

\_\_\_\_\_/s/\_\_\_\_\_  
Judith A. Ballard  
Presiding Board Member